Google Inc. et al v. Egger et al Doc. 617

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

IN RE NATIONAL SECURITY AGENCY TELECOMMUNICATIONS RECORDS LITIGATION	)	No. M:06-cv-01791-VRW
	)	**GOVERNMENT DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION TO EXTEND TIME**
This Document Relates To:	)	
McMurray et al. v. Verizon Comm., Inc. et al., No. 09-cv-0131-VRW	)	Date: June 3, 2009 Time: 10:30 a.m. Courtroom: 6, 17th Floor
	)	Chief Judge Vaughn R.

The Government Defendants do not oppose plaintiffs' requested extension to May 11, 2009 to respond to the Government Defendants' and telecommunication carrier defendants' motions to dismiss this action, but request that the Court not change the current hearing date of June 3, 2009.

Plaintiffs' motion for an extension of time did not comply with the local rules. Plaintiffs did not confer with the defendants on a stipulation concerning their requested extension in advance of their motion, as required by Local Rule 6-3(a)(2), nor did they file a declaration in accord with L.R. 6-3(a) &7-11(a). We recognize that circumstances may arise at the last minute

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which require counsel to seek additional time and, thus, do not object to the requested extension. However, no further extensions should be permitted for plaintiffs' oppositions. The Government's motion to dismiss was filed on March 13, 2009. *See* Dkt. 11. That motion was only 8 pages long and addressed a question of law raised by the plaintiffs' complaint—a Fifth Amendment "takings" challenge to Section 802 of the Foreign Intelligence Surveillance Act. *See id*. The carrier defendants' motion to dismiss was filed on March 16, 2009, and likewise was only 8 pages long. *See* Dkt. 16. Plaintiffs thus have had ample time to address these short motions.[1/]

In addition, because the Court is not otherwise available from June 10 through June 26, 2009, the Government respectfully requests that the Court not change the currently scheduled June 3 hearing date. *See* Dkt. 19. Plaintiffs' extension motion and proposed alteration to the briefing schedule (under which the Government and carrier defendants' respective replies would be due on May 26, 2009) would reduce the 14-day period under the local rules for the Court's review of the parties' submission prior to the June 3 hearing. If necessary to maintain the June 3 hearing date, the Government and carrier defendants' would file their replies on May 22, 2009 (just one day beyond the current May 21 reply date.)

CONCLUSION

For the foregoing reasons, the Government requests that, if the Court grants plaintiffs' requested extension, it not change the hearing date of June 3, 2009, and, if necessary to maintain that hearing date, permit the Government and carrier defendants to file their respective replies on May 22, 2009, to avoid further intrusion on the Court's review time that will result from the plaintiffs' belated motion to extend time.

The undersigned counsel for the Government has conferred with counsel for the carrier defendants in this action who have indicated that they agree with the position set forth in this response.

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[1] Plaintiffs filed an opposition to the carrier defendants' separate motion to dismiss for lack of jurisdiction. *See* Dkt. 20.

May 8, 2009

Respectfully Submitted,

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